# UNITED STATES PATENT AND TRADEMARK OFFICE

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POTOMAC PATENT GROUP PLLC
P. O. BOX 270
FREDERICKSBURG, VA 22404

| EXAMINER |
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| ORR, HENRY W |

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

tammy@ppglaw.com

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *7/24/2007*.

2a)☒ This action is **FINAL**.  2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1,4,5,10,13-21,23-30,32 and 33* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,4,5,10,13-21,23-30,32 and 33* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *24 July 2007* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All  b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date *8/8/2007*.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____ .

## DETAILED ACTION

1.     This action is responsive to applicant's amendment dated 7/24/2007.

2.     Claims 1, 4, 5, 10, 13-21 and 23-30, 32 and 33 are pending in the case.

3.     Claims 2-3, 6-9, 11-12, 22, 31, 34-46 are cancelled.

4.     Claims 1, 10, and 21 are independent claims.

## Applicant's Response

5.     In Applicant's response dated 7/24/2007, applicant has amended the following:

a) Drawings

b) Specification

c) Claims 1, 10, 16, 21 and 25

Based on Applicant's amendments and remarks, the following objections and

rejections previously set forth in Office Action dated 3/21/2007 are withdrawn:

a) Objection to Drawings

b) Objection to claims 16, 25 and 37

c) 35 U.S.C. 112 2nd Rejection to claims 10 and 13-20

## *Information Disclosure Statement*

The information disclosure statement (IDS) submitted on 8/8/2007 was filed after

the mailing date of the non-final action on 3/21/2007.  The submission is in compliance

with the provisions of 37 CFR 1.97.  Accordingly, the information disclosure statement is

being considered by the examiner.

## *Claim Rejections - 35 USC § 103*

6.      The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7.      **Claims 1, 4, 5, 10, 13-21, 23-27, 29-30, 32 and 33 are rejected under 35**

**U.S.C. 103(a) as being unpatentable over Daily et al. (hereinafter "Daily"), U.S.**

**Publication Application No. 2004/0123320 A1, in view of Duarte, U.S. Patent No.**

**7,093,201 B2.**

Claim 1:

Daily's Figure 1A **illustrates a control framework for organizing for**

**organizing, selecting and launching means for organizing said media items which**

**are represented by different images** (see par. 39, Figure 1A).

Daily teaches **means for pointing to one of said media items represented by**

**a respective one of said different images** (see par. 48).

Daily teaches **wherein said means for pointing to one of said media items**

**includes a three dimensional (3D) pointer and which generates a cursor on a**

**display screen, a position of said cursor being based on movement of said 3D**

**pointer** (see par. 48, par. 59). Examiner interprets the gesture devices to anticipate 3D

pointers because the bodily gesture movement used to point the input device

encompasses three or more dimensions in air in front of the television display screen

(see par. 48). The preliminary selection can be performed by moving a cursor over a

particular icon by a gesture device is interpreted to anticipate a cursor on a display

screen, a position of said cursor being based on movement of said 3D pointer because

the gesture device can control a cursor over a particular icon to make a preliminary

selection (see par. 59).

Daily teaches **means for selecting said one of said media items for display**

**at a different semantic level;** (see par. 40-42, par. 48). Examiner interprets the

wireless remote controls as the means for selecting one of a plurality of different

semantic levels associated with the media sources ("media items").

Daily fails to expressly teach a means for transitioning as recited in claim 1.

However, Duarte teaches **means for transitioning from a current semantic**

**level at which said one of said media items is displayed to said different semantic**

**level by simultaneously changing a size of said respective one of said different**

**images and translating said respective one of said different images from a first**

**location at said current semantic level to a second location at said different**

**semantic level** (see col. 8 lines 24-45, Figure 11). Examiner interprets the highlighting

of the media icons to make the media icons stand out from other media icons not

selected to be an example of changing a size as illustrated in Figure 11.

It would have been obvious to one of ordinary skill in the art at the time the

invention was made to substitute the interactive guide optional support of a preliminary

selection as taught by Daily with the curved-listing file ("media") hierarchy/preview area

capable of transitioning as recited in claim 1 as taught by Duarte to provide the benefit

of viewing more information based on the curved hierarchy structure (see Daurte col. 8

lines 39-42).

Claim 4:

Daily teaches *"gesture recognition devices for recognizing input from a user in

the form of a bodily movement, and microphones coupled with voice recognition

processors"* (see par. 48). **(claim 4; i.e., wherein said means for pointing to one of

said media item includes a voice recognition unit.)**

Claim 5:

Daily teaches *"gesture recognition devices for recognizing input from a user in

the form of a bodily movement, and microphones coupled with voice recognition

processors"* (see par. 48). **(claim 5; i.e., wherein said means for pointing to one of

said media items includes a gesture recognition unit.)**

Claim 10:

Daily's Figure 1A illustrates **a control framework for comprising: a display

screen for displaying graphical user interface objects** (see par. 39, Figure 1A).

Daily teaches **an input device for providing user input to a graphical user interface, wherein said input device includes a 3D pointer which generates a cursor on a display screen, a position of said cursor being based on movement of said 3D pointer** (see par. 48, par. 59).

Daily teaches **said graphical user interface for coordinating display of said graphical user interface objects on said display screen, said graphical user interface including: means for detecting when a position indicated on the screen by said input device is stationary for a predetermined period of time and to display additional images and/or text on the screen in response thereto** (see par. 59, Figure 1A).

Daily teaches **a means for detecting (par. 50, par. 59), a means for zooming (par. 54-55), a means for selecting (par. 57), a means for moving a selection target (par. 56), and a means for initiating an action (par. 59)** as cited in the limitations of claim 10. **(claim 10; i.e., means for zooming from one image scope to another image scope based on first input from said input device; means for selecting one of said graphical user interface objects based on second input from said input device; means for moving a selection target through a list of screen positions based on third input from said input device; means for initiating an action in said graphical user interface framework based on said indicated position and fourth input from said input device)**

Daily fails to expressly teach a means for transitioning as recited in claim 10.

However, Duarte teaches **means for transitioning from said one image scope to said another image scope by simultaneously changing a size of a respective one of said graphical interface objects and translating said respective one of said graphical interface objects from a first location at a current semantic level of said graphical user interface to a second location** (see col. 8 lines 24-45, Figure 11).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the interactive guide optional support of a preliminary selection as taught by Daily with the curved-listing file ("media") hierarchy/preview area capable of transitioning as recited in claim 10 as taught by Duarte to provide the benefit of viewing more information based on the curved hierarchy structure (see Daurte col. 8 lines 39-42).


Claim 13:

Daily teaches *"a touchpad 408 that allows a user to control"* (see par. 49). **(claim 13; i.e., wherein the input device includes a touchpad).**


Claim 14:

Daily teaches *"a television remote control 410"* (see par. 14).

**(claim 14; i.e., wherein the input device includes a television remote control device).**

Claim 15:

Daily teaches *"gesture may be used to perform the pre-selection"* (see par. 59).

**(claim 15; i.e., wherein at least one of said first, second, third and forth inputs is a**

**gesture)**

Claim 16:

Daily teaches *"gesture recognition devices for recognizing input from a user in*

*the form of a bodily movement, and microphones coupled with voice recognition*

*processors"* (see par. 48). **(claim 16; i.e., wherein at least one of said first, second,**

**third and forth inputs is a voice input)**

Claim 17:

Daily teaches *"touch pad, the user may control the level of zooming by moving*

*their fingers across the touch pad"* (see par. 54). **(claim 17; i.e., wherein the means**

**for moving a selection target includes a touchpad and said third input is a**

**movement on said touchpad.)** Examiner interprets the touchpad to be capable of

selecting a target (see par. 57).

Claim 18:

Daily teaches *"Preliminary selection can provide a user with a preview of the*

*media content, and can be performed, for example, by moving a cursor over a particular*

*icon or by an explicit pre-selection command, for example, a specific button, vocal*

*command, or gesture may be used to perform the pre-selection"* (see par. 59). **(claim
18; i.e., wherein said means for displaying additional images and/or text further
comprises means for receiving a gesture input associated with a hover function.)**
Examiner interprets moving a cursor over a particular icon as the hover function.

Claim 19:

Daily teaches *"The speech recognition component can use standard speech
recognition technologies to incorporate a dynamic, customizable language and
grammar to allow a user to provide spoken commands to the interactive guide.
Preferably, simple and easy-to-use phrases such as "go back", "pick", "zoom view",
"pan screen" may be used"* (see par. 42).
**(claim 19; i.e., wherein said first input of said means for zooming is one of a
gesture or a speech command.)** Examiner interprets the phrase "zoom view" to be a
speech input command.

Claim 20:

Daily teaches *"a television to generate the display"* (see par. 49). **(claim 20; i.e.,
wherein the display screen is a television.)**

Claim 21:

Daily's Figure 4 illustrates **a media system comprising: a television having a
display screen** (see Figure 4).

Daily teaches **a 3D pointing device for providing input to said television, said input based, at least in part, on movement of said 3D pointing device which generates a cursor on a display screen, a position of said cursor being based on movement of said 3D pointing device** (see par. 48, par. 59).

Daily's Figures 3 and 4 illustrates **a system controller for receiving said input and controlling media content displayed on said display screen based on said input, wherein said system controller includes memory for storing software code associated with primitives for controlling said media content display, and wherein: a first one of said primitives is a scroll primitive, such that said controller scrolls media content displayed on said display screen of said television responsive to a first input from said pointing device; and a second one of said primitives is a hover primitive, such that said system controller alters a display of said media content displayed on said display screen of said television when said cursor hovers over a portion of said display screen for a predetermined period of time** (see par. 59, Figures 3 and 4). Examiner interprets the television and mouse with a scroll wheel capable of performing the scroll primitive as cited in claim 21.

Daily fails to expressly teach a means for transitioning as recited in claim 21.

However, Duarte teaches **wherein said software code operates to transition from a current semantic level at which a media item is displayed to a different semantic level by simultaneously changing a size of a respective image and translating said respective image from a first location at said current semantic**

**level to a second location at said different semantic level** (see col. 8 lines 24-45,

Figure 11).

It would have been obvious to one of ordinary skill in the art at the time the

invention was made to substitute the interactive guide optional support of a preliminary

selection as taught by Daily with the curved-listing file ("media") hierarchy/preview area

capable of transitioning as recited in claim 21 as taught by Duarte to provide the benefit

of viewing more information based on the curved hierarchy structure (see Duarte col. 8

lines 39-42).


Claim 23:

Daily teaches *"The navigation interface supports various gesturing devices with*

*many buttons (or none) including wireless or corded mice, wireless pointers, and other*

*devices that otherwise simulate two or three button mice"* (see par. 42). **(claim 23; i.e.,**

**wherein said 3D pointing device has at least one button and wherein one of said**

**primitives is a click primitive which indicates actuation of said at least one**

**button.)** Examiner interprets the gesturing device as a 3D pointing device.


Claim 24:

Daily's Figure 4 illustrates a mouse with a scroll wheel (see Figure 4, ref. # 418.)

**(claim 24; i.e., wherein said 3D pointing device includes a scroll wheel.)** Examiner

considers mice with three buttons or two buttons with scroll wheel as 3D pointing

devices.

Claims 25-27:

Daily teaches *"If a zoom-in command is received, the display is adjusted to show more detail 706"* (see par. 54). **(claim 25; i.e., wherein said system controller alters said display of said media content by magnifying media content associated with said portion of said display screen.) (claim 26; i.e., wherein a third one of said primitives is a zoom primitive, such that said system controller changes a magnification of said media content displayed on said display screen of said television based on a second input from said 3D pointing device.) (claim 27; i.e., wherein said change in said magnification includes changing from a first magnification level to a second magnification level, wherein information is visible at said second magnification level that was not visible or appropriate at said first magnification level.)** Examiner interprets zooming in more detail as equivalent to magnifying detail on the second zoom level that wasn't visible on the first zoom level.

Claim 29:

Daily teaches *"touchpad-based remote control 406 which provides the user with a set of buttons as well as a touchpad 408"* (see par. 49). **(claim 29; i.e., wherein the 3D pointing device includes a touchpad.)** Examiner interprets the touchpad-based remote control as anticipating the 3D point device including a touch pad because the gesturing device contains buttons to serve as a remote control. Therefore, the touchpad-based remote control would clearly anticipate including a touchpad to the gesturing device ("3D point device") remote control as recited in claim 29.

Claim 30:

Daily teaches *"Navigation control may be provided by several possible means,*

*preferably through the use of a traditional remote control. The user may use various*

*combinations of buttons and gestures or spoken language to signify a desired*

*command, depending on the device used for user input. The navigation interface*

*supports various gesturing devices with many buttons (or none) including wireless or*

*corded mice, wireless pointers"* (see par. 42). **(claim 30; i.e., wherein the 3D pointing**

**device includes a television remote control device.)** Examiner interprets the

gesturing devices ("3D pointing device") as capable of being used as a traditional

remote control because the gesturing devices contain buttons for signifying commands

to the television.

Claim 32:

Daily teaches *"The speech recognition component can use standard speech*

*recognition technologies to incorporate a dynamic, customizable language and*

*grammar to allow a user to provide spoken commands to the interactive guide.*

*Preferably, simple and easy-to-use phrases such as "go back", "pick", "zoom view",*

*"pan screen" may be used"* (see par. 42). **(claim 32; i.e., wherein at least one of said**

**scroll primitive and said hover primitive are actuated in response to a speech**

**command.)** Examiner interprets the phrase "pan screen" as a speech command to

actuate the scroll primitive.

Claim 33:

    Daily teaches *"By allowing the use of pointing and speaking, a user could, for*

*example, simply move the cursor over media and say, "play this" or "take me there"*

(see par. 43). **(claim 33; i.e., wherein at least one of said scroll primitive and said**

**hover primitive are actuated in response to a gesture)** Examiner interprets the user

moving the cursor over the media as a gesture that actuate the hover primitive.


**8.     Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over**

**Daily in view of Duarte as cited above, in further view of Butler, U.S. Patent No.**

**6,154,199.**

Claim 28:

    Daily fails to expressly teach a 3D pointing device including a trackball.

    However, Butler teaches *"a hand positioned mouse and more particularly to a*

*glove like article having a tracking ball positioned to be operated by the thumb with*

*switch functions or buttons positioned on the palm of the hand"* (see col. 2 lines 31-35).

**(claim 28; i.e., wherein the 3D pointing device includes a trackball.)** Examiner

interprets the hand positioned mouse as a 3D pointing device because the movement of

the hand in three or more dimensions can be translated to control a cursor (Butler; col. 1

lines 42-50).

    Therefore, it would have been obvious to one of ordinary skill in the art at the

time the invention was made to modify the gesture device ("3D pointing device") as

taught by Daily to include a track ball as taught by Butler to provide the benefit of saving

time and producing efficient means of simultaneous cursor control and typing (see

Butler; col. 1 lines 42-50).


### *Response to Arguments*

9.      Applicant's arguments with respect to independent claims 1, 10 and 21 have

been considered but are moot in view of the new ground(s) of rejection.


Rejections under 103(a):

In respect to newly amended claims 1, 10, and 21, Applicant argues Daily does

not teach or suggest the "means for transitioning" as recited in the amended claims

(See Response Page 14, 3$^{rd}$ full paragraph).

Applicant's argument is moot in view of the new ground(s) of rejection.


Applicant argues Daily does not teach or suggest a 3D pointer or pointing device

which generates a cursor on a display screen, the position of which is based on

movement of the 3D pointer or pointing device. Similarly, the gesture recognition device

of Daily is not described as a mechanism for controlling the position of a cursor on a

display screen (See Response Page 14,  4$^{th}$ full paragraph).

Examiner disagrees.

Daily teaches moving a cursor by gesture to perform a pre-selection (see par.

59). Therefore, a gesture device ("3D pointer") controls the movement of a cursor on a

display screen over a particular icon. Thus, Daily does teach a gesture device ("pointing

device"), which generates a cursor on a display screen, the position of which is based

on movement of the 3D pointer or pointing device.


Applicant argues that Daily does not teach or suggest a means for detecting

when a position indicated on the screen by the input device is stationary for a

predetermined period of time and to display additional images and/ or text on the screen

in response thereto. Similarly, the preliminary selection feature as taught by Daily does

not involve a detection of the input device as being stationary for a predetermined

period of time (See Response Page 15, 1$^{st}$ full paragraph).

Examiner disagrees.

Daily teaches a cursor positioned over a particular icon to perform a preliminary

selection. Moving a cursor over a particular icon to perform a preliminary selection is

referred to as hovering, which involves a stationary position of the cursor over the

particular icon to initiate a change. The time for the change in response to the cursor

hovering over the particular icon is the same as oppose to being randomly different

anytime the cursor hovers over the particular icon. Therefore, the consistent timing for

the change to respond to the hovering of the cursor over the particular icon clearly

anticipates a predetermined period of time that is constant and consistent.


Applicant argues the pre-selection mechanism of Daily does not alter the display

of media content after the cursor hovers over a portion of the display screen for a

predetermined period of time (See Response Page 15, 1$^{st}$ full paragraph)..

Examiner disagrees.

Daily teaches a pre-selection mechanism that highlights an icon by changing the

brightness or color of the icon when the cursor is moved over the icon (see par. 59).

Therefore, when the cursor hovers over an icon on the display screen for a

predetermined period of time; the displayed icon ("media content") may be altered by

changing the brightness or color of the icon.


Applicant arguments with respect to claim 28 is substantially encompassed in the

arguments under 35 U.S.C 103(a) above, therefore examiner responds with the same

rationale as stated above (See Response Page 15, 3rd full paragraph).


### Conclusion

9.      Applicant's amendment necessitated the new ground(s) of rejection presented in

this Office action.  Accordingly, **THIS ACTION IS MADE FINAL**.  See MPEP

§ 706.07(a).  Applicant is reminded of the extension of time policy as set forth in 37

CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action.  In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action.  In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the date of this final action.

9/21/2007

HO

*/Doug Hutton/*
Supervisory Primary Examiner
Technology Center 2100